

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

JOSEPH BOOK,  
Plaintiff

VS

STATE TROOPER KURT M.  
FERRAZANNI, STATE TROOPER SMITH )  
STATE TROOPER MCKENZIE, AND )  
STATE TROOPER HENNIGAN )  
Defendants )

NO. 04-CV11557

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DEFENDANTS' MOTION IN LIMINE  
TO PRECLUDE PLAINTIFF FROM ATTEMPTING TO  
INTRODUCE ANY REFERENCE TO ANY DISCIPLINARY  
RECORD OF DEFENDANTS

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Now come the defendants and move in limine to preclude the plaintiff from attempting to introduce or make any testimonial reference to any alleged discipline of any of defendants. In support of this motion defendants show that the plaintiff asked questions in deposition about disciplinary records of the defendants. Defendants were not disciplined for any matter related to this case. Defendants have no significant disciplinary record and no record that would relate in any way to any issue in this case.<sup>1</sup>

Police discipline would not meet any standard for admissibility. Pursuant to Fed.

R. Evid. 404(b),:

Evidence of other crimes, wrongs or acts is not admissible to prove character

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<sup>1</sup> Defendant Ferrazzani did not testify as to the receipt of any discipline. Defendant McKenzie's discipline consisted of receiving a letter of counseling for a cruiser accident and a letter of reprimand for language, both years after this incident.

of a person in order to show action in conformity therewith.

The First Circuit analyzes issues raised under 404(b) by asking whether the evidence is offered for a legitimate purpose (See Huddleson v. United States, 485 U.S. 681, 108 S.Ct 1496, 1499 (1988)) and, if so, whether considerations of substantial prejudice require it to be suppressed under Fed. R. Evid. 403. United States v. Fields, 871 F.2d 188, 196 (1<sup>st</sup>.Cir. 1989).

There is no pattern or practice that would be admissible under any Federal Rule of Evidence. By way of comparison, disciplinary records do not bear the significance of criminal convictions, which would have only admissibility for impeachment only in limited circumstances. The attempt to refer to or introduce evidence of alleged discipline of any defendants would serve solely as an attempt to prejudice the jury and would not be probative of any issue in this case.

Wherefore defendants move in limine that plaintiff be precluded from attempting to introduce or make any testimonial reference to any discipline of any of defendants.

Respectfully submitted,

Defendant Kurt Ferrazanni  
By his counsel,

/s/ Brian Rogal

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Defendants McKenzie, Smith and  
Hennigan,  
By their counsel,

/s/ Timothy M. Burke

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